

B|E|S BRAGAR EAGEL & SQUIRE, P.C.

Brandon Walker
810 Seventh Avenue
Suite 620
New York, NY 10019
Tel: (212) 355-4648
Fax: (212) 486-0462
walker@bespc.com

February 6, 2025

VIA ECF

The Honorable Paul A. Engelmayer
United States District Judge
United States District Court for the
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Mehr v. Oliviero, et al.*, Case No. 1:25-cv-00331-PAE
Geary v. Oliviero, III, et al., Case No. 1:24-cv-03471-PAE

Dear Judge Engelmayer:

We represent plaintiff Bonnie Mehr (“Plaintiff”) in the above-referenced stockholder derivative action against Nominal Defendant Checkpoint Therapeutics, Inc. (“Checkpoint” or the “Company”) and defendants James F. Oliviero, III (“Oliviero”), William Garrett Gray (“Gray”), Christian Béchon, Scott Boilen, Neil Herskowitz, Lindsay A. Rosenwald, Barry Salzman, and Michael S. Weiss (together, the “Individual Defendants” and collectively with Checkpoint, the “Defendants”) (the “*Mehr* Action”). Pursuant to Rule 1.E of the Court’s Individual Rules and Practices, we respectfully submit this letter to request that the Court enter the enclosed Joint Stipulation and [Proposed] Order to Consolidate Related Shareholder Derivative Actions, Appoint Co-Lead Counsel for Plaintiffs, and Apply the Existing Stay to the Consolidated Action (the “Stipulation”).

On May 6, 2024, plaintiff Kevin Geary (“Geary” and, together with Plaintiff and Defendants, the “Parties”) filed a putative shareholder derivative action in this Court asserting claims for breach of fiduciary duty, unjust enrichment, waste of corporate assets, gross mismanagement, abuse of control, and violations of Section 14(a) of the Securities Exchange Act of 1934, (the “Exchange Act”) and U.S. Securities Exchange Commission (“SEC”) Rule 14a-9, against the Individual Defendants; and violations of Sections 10(b) of the Exchange Act and SEC Rule 10b-5 against defendants Oliviero and Gray (the “*Geary* Action”). On June 20, 2024, this Court entered a Joint Stipulation to Stay the *Geary* Action (the “Stay Order,” *Geary* Action, ECF No. 12) which, *inter alia*, stayed the *Geary* Action until the final resolution of the motion to dismiss, including any appeals therefrom, in the related securities class action captioned *In re Checkpoint Therapeutics, Inc. Securities Litigation*, Case No. 1:24-cv-02613-PAE also pending in this Court.

NEW YORK

SOUTH CAROLINA

CALIFORNIA

BEIS BRAGAR EAGEL & SQUIRE, P.C.

The Honorable Paul A. Engelmayer
February 6, 2025
Page 2

On January 13, 2025, Plaintiff filed this putative shareholder derivative action asserting claims for breach of fiduciary duty, unjust enrichment, aiding and abetting, and violations of Section 14(a) of the Exchange Act and SEC Rule 14a-9, against the Individual Defendants; violations of Section 10(b) of the Exchange Act and SEC Rule 10b-5 against defendant Oliviero; and for insider selling and misappropriation of information against defendants Gray and Oliviero (the “*Mehr* Action” and, together with the *Geary* Action, the “Derivative Actions”). The deadline for Defendants to move against, answer, or otherwise respond to the *Mehr* Action is March 17, 2025.

The Derivative Actions challenge substantially the same alleged conduct by similar Company directors and executive officers, involve substantially the same questions of law and fact, and are based on the same factual allegations. The Parties agree, among other things, that pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the Derivative Actions should be consolidated for all purposes, including pre-trial proceedings and trial, into a single consolidated action to avoid duplication of effort and potentially conflicting results, and to conserve party and judicial resources.

Accordingly, Plaintiff respectfully requests that the Court enter an Order, pursuant to the enclosed Stipulation, that consolidates the Derivative Actions, appoints co-lead counsel, and applies the existing stay in the *Geary* Action to the consolidated action.

Thank you for your attention to this matter. We remain at the Court’s disposal should Your Honor have any questions or concerns.

Sincerely,

/s/ Brandon Walker
Brandon Walker


BW/gac

Encl.
Cc: All counsel of record via ECF.

As requested by the parties, the Court stays this action until the resolution of the motion to dismiss, including any appeals therefrom, in the related action before this Court, *In re Checkpoint Therapeutics, Inc. Securities Litigation* 24 Civ. 2613 (PAE). See Dkt. 33-1, at 2.

The Court, however, finds premature plaintiffs' application (1) to consolidate this action with *Geary v. Oliviero*, 24 Civ. 3471, and (2) to appoint lead counsel. The Court denies these requests without prejudice to renewal upon the Court's lifting of the stay.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: March 17, 2025
New York, New York